

**DELEGATION OF AUTHORITY  
CLEAN WATER ACT (CWA)**

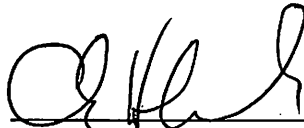
Class I Administrative Penalty Actions

1. **AUTHORITY.** Pursuant to the Clean Water Act the authority to:
  - a. Act as the complainant in a Class I administrative penalty action under the CWA.
  - b. Conduct proceedings, recommend the form of final Agency action, issue subpoenas and perform all the presiding officer functions set forth in applicable Agency guidance or regulations governing the administration of Class I administrative penalty actions under the CWA.
  - c. Represent the complainant before a presiding officer in a Class I administrative penalty proceeding under the CWA.
  - d. Issue an order on consent between the Agency and a respondent resulting from the initiation of a Class I administrative penalty action under the CWA.
  - e. Act as deciding official in a contested or default Class I administrative penalty action under the CWA, and to assess a penalty in such a proceeding.
  - f. [this authority not redelegated]
2. **TO WHOM REDELEGATED.**
  - a. The authority in 1.a. is redelegated to the Director, Enforcement and Compliance Assurance Division, or equivalent.
  - b. The authorities in 1.b., 1.d., and 1.e. are redelegated to the Regional Judicial Officer in the Office of Regional Counsel.
  - c. The authority in 1.c. is redelegated through the Regional Counsel, Office of Regional Counsel, or equivalent, and through the Branch Chief, Water Law Branch, or equivalent, to the staff attorneys.
3. **LIMITATIONS.**
  - a. The AA for OECA, or his/her delegatee, may exercise such authority only in multi-regional cases or cases of national significance.
  - b. The AA for OECA, or his/her delegatee, shall consult with the appropriate regional administrator or division director before initiating a Class I action.
  - c. The regional administrator or regional judicial officer shall provide the Environmental Appeals Board with a timely copy of the decision in a contested or a defaulted action so that there is an opportunity for a *sua sponte* review.
  - d. Any official exercising this authority shall obtain the prior concurrence of the regional counsel, or his/her delegatee, on the legal sufficiency of complaints and consent agreements.
4. **REDELEGATION AUTHORITY.**
  - a. The authority in 1.a. may be redelegated to the branch chief level.
  - b. The authorities in 1.b., 1.d., and 1.e. may not be further redelegated.

- c. The authority in 1.c. may be redelegated to staff attorneys.
  - d. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.
5. **SUPERSESSION.** This delegation supersedes R10 2-51 (10/28/2004) and any other delegation of the same authority.
6. **ADDITIONAL REFERENCES.**
- a. Section 309 of the Clean Water Act, 33 U.S.C. Section 1319, as amended by the Water Quality Act of 1987.
  - b. Section 311 of the Clean Water Act, 33 U.S.C. Section 1321, as amended by the Oil Pollution Act of 1990.
  - c. Agency guidance or regulations governing Class I administrative penalty actions under the Clean Water Act.
  - d. 40 C.F.R Part 22.
  - e. October 29, 1991 memo from AA of OECA, redelegating authority to represent the EPA in non-APA enforcement proceedings.
  - f. EPA Delegation 2-51.

Date

February 10, 2020



Chris Hladick  
Regional Administrator